

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT S.D.N.Y.
★ MAR 09 2012 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

CELESTE GREEN, as Parent and Natural Guardian
of ALIA GREEN, MARCHELL RUGGS, as Parent
and Natural Guardian of ASHLEY VICTORIA
RUGGS, and JONATHAN and RANDI BOLOS, as
Parents and Natural Guardians of LAUREN BOLOS,

Plaintiffs,

-against-

THE CITY OF NEW YORK, THE CITY OF NEW
YORK DEPARTMENT OF SOCIAL SERVICES
HUMAN RESOURCES ADMINISTRATION, and
VERNA EGGLESTON

Defendants.

No. 05 Civ. 0429 (SLT)(ETB)

**STIPULATION AND ORDER OF
SETTLEMENT CONCERNING
COUNSEL FEES, COSTS,
EXPENSES, AND
DISBURSEMENTS FOR WORK
PERFORMED FROM JANUARY 1,
2011 UNTIL JANUARY 31, 2012**

WHEREAS, the parties to this action entered into a Stipulation and Order of Settlement dated April 17, 2008 ("the Settlement Agreement"), which settled the issues raised in this litigation by Plaintiffs without further proceedings and without any admission of fault or liability by Defendants (Defendants with Plaintiffs, the "Parties");

WHEREAS, the Court approved the Settlement Agreement by Order dated November 14, 2008;

WHEREAS, Defendants agreed that Plaintiffs were entitled to counsel fees as though they were prevailing parties under 42 U.S.C. § 1988 concerning their work performed on this action from October 17, 2008, until December 31, 2009; and that Plaintiffs also were entitled to reasonable attorneys' fees and reimbursement of expenses for time spent executing and enforcing the terms of the Settlement Agreement from November 14, 2008, until December 31, 2010;

WHEREAS, the Court issued an order entered on January 14, 2010, setting Plaintiffs' attorneys' fees and expenses for work performed from the inception of the case until October 16, 2008;

WHEREAS, by Stipulation dated May 27, 2010, the Parties resolved the issue of Plaintiffs' counsel fees, costs, expenses and disbursements incurred from October 17, 2008 through December 31, 2009;

WHEREAS, by Stipulation dated March 25, 2011, the Parties resolved the issue of Plaintiffs' counsel fees, costs, expenses and disbursements incurred from January 1, 2010 through December 31, 2010; and

WHEREAS, Plaintiffs' counsel performed additional work in connection with this action from January 1, 2011 through January 31, 2012; and

WHEREAS, the Parties wish to resolve the issue of Plaintiffs' counsel fees, costs, expenses, and disbursements incurred from January 1, 2011 up to and including January 31, 2012, without further proceedings, on terms and conditions that are just and fair to all Parties;

NOW, THEREFORE, IT IS HEREBY AGREED, by and between the Parties, through their attorneys, as follows:

1. The City of New York ("the City") shall pay Plaintiffs, for counsel fees, costs, expenses, and disbursements, concerning their work performed on this action from January 1, 2011 up to and including January 31, 2012, the sum of THIRTY THREE THOUSAND, FIVE HUNDRED DOLLARS (\$33,500) by check made payable to Pavia & Harcourt LLP.

2. In consideration for the payment identified in paragraph "1," above, Plaintiffs hereby release all Defendants, their past and present officials, employees, departments, agencies, representatives, directors, and agents, and their successors and assigns, from any and

all liability, claims, and/or rights of action for counsel fees, costs, expenses, and disbursements that were accrued or incurred in or concerning this action, for their work performed on this action from January 1, 2011 up to and including January 31, 2012.

3. Upon execution of this Stipulation, Plaintiffs' counsel shall execute a Release ("Release") in the form annexed hereto as Exhibit "A," and shall provide promptly this Release to Defendants' undersigned counsel, together with tax identification numbers and substitute W-9 forms (as needed) for Plaintiffs' counsel.

4. Delivery of the check described above in paragraph "1," above shall be made to Pavia & Harcourt LLP at 590 Madison Avenue New York, New York, no later than sixty (60) days following the date the Court so-orders this Stipulation, provided defendants have received the Release described above in paragraph "3."

5. Nothing herein shall be deemed to be an admission by Defendants of any liability whatsoever or, shall be deemed to be an admission by Defendants that Plaintiffs will be entitled to any counsel fees, costs, expenses, or disbursements in the future in connection with this action. Nothing herein shall be deemed to constitute a waiver of any defenses to any future application or appeal Plaintiffs may make in connection with any other motion or proceeding in this action.

6. Nothing herein shall be deemed to be an agreement or an admission by the Defendants as to the reasonableness of the number of hours billed or the hourly rates claimed by Plaintiffs' counsel.

7. Nothing contained herein shall be deemed to constitute a custom, policy, or practice of the City of New York or any of its agencies, including the Human Resources Administration.

8. This Fee Stipulation is solely for the purposes of settlement in this action and does not reflect the positions of the Parties in any other judicial or administrative action or proceeding. The Parties agree not to offer this Fee Stipulation or any of its terms as evidence in any other judicial or administrative action or proceeding or settlement negotiation, including, but not limited to, plaintiffs' appeal of the Order entered on January 14, 2010, and any future fee application, except that either party to this Fee Stipulation may use it in connection with any subsequent action or proceeding brought to enforce it, or in any other action brought concerning counsel fees, costs, expenses, and disbursements that were accrued or incurred in or concerning this action, concerning work performed on this action from January 1, 2011 up to and including January 31, 2012.

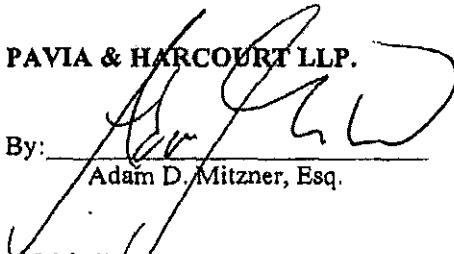
9. This Fee Stipulation contains all of the terms and conditions agreed on by the Parties regarding the settlement of Plaintiffs' claim for counsel fees, costs, expenses, and disbursements in this litigation accrued or incurred in or concerning this action, from January 1, 2011 up through and including January 31, 2012. No oral agreement entered into at any time nor any other written agreement entered into prior to the execution of this Stipulation shall be deemed to exist, to bind the parties, or to vary the terms and conditions contained herein.

10. This Stipulation is final and binding on all Parties, as well as their successors and assigns.

11. This Stipulation is not intended, and shall not be construed, to alter, vary, modify, revise, or amend any of the terms of the Settlement Agreement.

Dated: New York, New York
March 6, 2012

PAVIA & HARCOURT LLP.

By: 
Adam D. Mitzner, Esq.

590 Madison Avenue
New York, New York 10022
Tel: (212) 508-2318

Counsel for Plaintiffs

MICHAEL A. CARDOZO
CORPORATION COUNSEL OF THE
CITY OF NEW YORK

By: 
Emily Sweet
Assistant Corporation Counsel

100 Church Street, Rm. 2-110
New York, New York 10007
Tel: (212) 788-1171

Counsel for Defendants

SQ ORDERED:

s/ SLT
U.S.D.J.

3/7/12